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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,212	01/24/2002	Nico N. Raczek	01/016 NUT	1719
38263	7590	07/29/2004	EXAMINER	
PROPAT, L.L.C. 425-C SOUTH SHARON AMITY ROAD CHARLOTTE, NC 28211-2841			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Spanier et al. (US Patent 4904494).

Spanier et al. teaches making a dog snack which may include a preservative in the amount 0.01 to 4 weight percent. Sorbic acid is listed as one of seven specified suitable preservatives. See col. 8, paragraph 7. See MPEP 2112 (Requirements of Rejection based on inherency; Burden of proof). Something which is old does not become patentable upon the discovery of a new property. The claiming of a new use, new function or unknown property does not necessarily make the claim patentable. In re Best, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

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